

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA)
)
V.) Criminal No. 4:18CR00011-01
)
MARCUS JAY DAVIS,)
 Defendant.)

MOTION TO SEVER

COMES NOW the Defendant, Marcus Jay Davis, by and through counsel, and hereby respectfully moves the Court to sever his trial from that of his co-defendants and in support thereof states as follows.

Rule 14(a) of the Federal Rules of Criminal Procedure provides that, “[i]f the joinder of offenses or defendants in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants’ trials, or provide any other relief that justice requires.”

In this case, the trial of Marcus Davis with all other co-defendants would unfairly prejudice him. He is charged in only seven of forty counts in the First

Superceding Indictment. Moreover, he is alleged to be involved in just two of the five alleged violent crimes alleged in that Indictment, the death of Chris Motley and the attempted murder of Justion Wilson. Significantly, he is not charged in the counts that allege the attempted murder of Armonti Devine Womack, the attempted murder of Dwight Montel Harris, or the attempted murder of Tyliek Conway.

Furthermore, he is not charged in any of the counts alleging obstruction of justice, making false statements to the grand jury, or witness tampering. Thus, there will be volumes of evidence regarding overt acts in the conspiracy and substantive offenses that are not relevant as to Marcus Davis and that will cause particular prejudice to him and will result in an unfair trial. Indeed, for the jury to hear such prejudicial evidence that is immaterial to Davis, creates a serious risk that the joint trial would compromise his right to a fair trial and would prevent the jury from making a reliable judgment about guilt or innocence. See, Zafiro v. United States, 506 U.S. 534, 539 (1993).

For these reasons, the Defendant, Marcus Jay Davis, respectfully requests that he be severed from his co-defendants for trial.

Respectfully submitted,

Marcus Jay Davis

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CERTIFICATE OF SERVICE

I hereby certify that this 1st day of April, 2019, I electronically filed the foregoing Motion To Sever with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record including the following:

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